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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/841,486	04/25/2001	Yasuo Iwasa	Q63961	4521

7590 03/21/2003
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WASHINGTON, DC 20037-3213

EXAMINER

VO, HAI

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 03/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/841,486

Applicant(s)

IWASA ET AL.

Examiner

Hai Vo

Art Unit

1771

A3-8

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

1. Claim 12 has been cancelled in the amendment received on 01/16/2003.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-9, and 13-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Suzuki et al (US 4,506,037) as set forth in Paper no. 5. With regard to claims 2, 3, 5, Since Suzuki is using the same kneading process and the same composition to form a porous film and the amount of the hydrophilic thermoplastic resin employed overlapping with the specific range required by the claims, and further, the contact angle with water is related to the amount of the hydrophilic thermoplastic resin, it is the examiner's position that the contact angle with water of the porous sheet would be inherently present. In addition, since the porosity dictates the void distribution and the sheet of Suzuki has the porosity meeting the requirement of the claims, it is the examiner's position that the pores per m² on the surface would be inherently present. With regard to claim 7, Suzuki discloses the foam product comprising a thermoplastic resin and a powder of hydrophilic resin in an amount of 30 to 250 parts by weight per 100 parts by weight of the thermoplastic resin (column 2, lines 62-63, column 5, lines 29-30). The extruded sheet is stretching (column 10, lines 22-24). It is the examiner's position that Suzuki anticipates the claimed subject matter.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al (US 4,506,037) as applied to claim 1, further in view of Arai et al (US 4,686,118). Suzuki teaches the hydrophilic powder can be melamine resin, phenolic resin (column 2, line 63). Suzuki does not specially disclose the hydrophilic powder being an alkylene oxide polymer. Arai teaches the hydrophilic powder being an alkylene oxide polymer, melamine resin, or phenolic resin. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ an alkylene oxide polymer as the hydrophilic powder because of its ready availability and economic advantage.
5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al (US 4,506,037) in view of Arai et al (US 4,686,118) as applied to claim 10 above, further in view of Fujita et al (US 5,059,630). The combination of the Suzuki and Arai fails to teach the alkylene oxide polymer is a reaction product of an alkylene oxide compound and a dicarboxylic acid compound. Fuji teaches the alkylene oxide polymer is a reaction product of an alkylene oxide compound and a dicarboxylic acid compound (column 4, lines 6-14). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ an alkylene oxide

polymer as a reaction product of an alkylene oxide compound and a dicarboxylic acid compound because of its practical and economical method of preparing the alkylene oxide polymer.

Response to Arguments

6. The art rejections over Fujita or Yamanaka or Akiyama have been overcome by the present amendment and response.
7. The art rejections over Suzuki et al (US 4,506,037) have been maintained for the following reasons. At the first place, Suzuki discloses a resin foam comprising about 50 % by weight of thermoplastic resin (example 2). Suzuki further discloses the thermoplastic resin being a combination of polypropylene and polyvinyl alcohol that is a hydrophilic thermoplastic resin (column 2, lines 20-40). Suzuki teaches the hydrophilic thermoplastic resin can be melamine resin, phenolic resin (column 2, line 63). The extruded sheet is stretching (column 10, lines 22-24). Secondly, Applicant merely argues that a liquid absorbing capacity of 0.5 ml/m² makes the film of the present invention distinguished from the film of Suzuki. However, since there is no evidence to show that the film of Suzuki can not achieve the a liquid absorbing capacity within the range set forth in the claims and the porous film of Suzuki meets all the recited structure required by the claims, it is the examiner's position that a liquid absorbing capacity would be inherently present. Products of identical chemical composition can not have mutually exclusive properties. In re Spada, 15 USPQ 2d 1655 (1990).

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Vo whose telephone number is (703) 605-4426. The examiner can normally be reached on Tue-Fri, 8:30-6:00 and on alternating Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

HV
March 19, 2003

A handwritten signature in black ink, appearing to read "Terrel Morris".

TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700